

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 67 of 2005

OM PRAKASH
V/S
JAGDISH CHANDRA & ORS

Mr. KC SAMDARIYA, for the appellant / petitioner

Date of Order : 11.3.2005

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the appellant.

Having perused the impugned judgments, I do not find any substantial question of law to be involved in the present appeal.

The learned Lower Appellate Court has dismissed the appeal as time barred. Learned Lower Appellate Court has considered that the appeal has been filed after a long delay even after date of knowledge of the judgment, while according to the learned counsel for the appellant, the appeal has been filed within 30 days of the appellant coming to know of the judgment. In my view, limitation for filing appeal does not start from the appellant coming to know about the judgment.

It is a different story that the learned Lower Appellate Court has not believed the version of the appellant, about his not having known about the judgment for more than one year. Likewise, it has positively been found, that the theory propounded by the appellant about the counsel having asked him not to come, and the counsel was not having his address are not reliable. It has also been found that for the sake of arguments even if it were to be believed that the counsel was not having the address of the appellant, appellant could in any case contact the lawyer on telephone. The learned Lower Appellate Court has thus found that the appellant has failed to establish any sufficient cause, whereby he may have been prevented from filing the appeal within time.

The findings recorded by the learned Lower Appellate Court are pure findings of fact, and are not shown to be vitiated on any of the grounds available under Section 100 CPC.

The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA), J.

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